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ALEXANDER L. STEVAS

No. 84-859

IN THE

Supreme Court of the United States

OCTOBER TERM, 1984

WILTON JOHNSON,

Petitioner,

VS.

CONSOLIDATED RAIL CORPORATION,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

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THE PETITION FOR A WRIT OF CERTIORARI FAILS TO COMPLY WITH RULE 17 AND RULE 21.1(j) OF THE RULES OF THE UNITED STATES SUPREME COURT

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ARGUMENT

Petitioner has failed to comply with Rule 21.1(j) of the Rules of the Supreme Court of the United States in that Petitioner has failed to include in his Petition for Writ of Certiorari a direct and concise argument amplifying the reasons relied on for the allowance of the Writ.

Rule 17, of the Rules of the Supreme Court of the United States provides:

> ".1. A review on writ of certiorari is not a matter of right, but of judicial discretion, and will be granted only when there are special and important reasons therefor.

The following, while neither controlling nor fully measuring the Court's discretion, indicate the character of reasons that will be considered.

(a) When a federal court of appeals has rendered a decision in conflict with the decision of another federal court of appeals on the same matter; or has decided a federal question in a way in conflict with a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this Court's power of supervision.

(b) When a state court of last resort has decided a federal question in a way in conflict with the decision of another state court of last report or of a federal court of appeals.

(c) When a state court or a federal court of appeals has decided an important question of federal law which has not been, but should be, settled by this Court, or has decided a federal question in a way in conflict with applicable decisions of this Court.

.2. The same general considerations outlined above will control in respect of petitions for writs of certiorari to review judgments of the Court of Claims, of the Court of Customs and Patent Appeals, and of any other court whose judgments are reviewable by law on writ of certiorari."

The United States Court of Appeals for the Seventh Circuit has not rendered a decision in conflict with the decision of another Federal Court of Appeals on the same matter; has not decided a Federal question in a way in conflict with a state court of last resort; has not so far

departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this Court's power and supervision.

This action does not involve any action on the part of a state court.

The United States Court of Appeals for the Seventh Circuit has not decided an important question of Federal law which has not been, but should be, settled by this Court, or has not decided a Federal question in a way in conflict with applicable decisions of this Court.

Therefore, since Petitioner has failed to comply with Rule 21 and has failed to come under Rule 17, his Petition for Writ of Certiorari should be denied instanter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served upon J. B. Blumenstiel, Counsel for Petitioner, of Grieser Schafer, Blumenstiel & Slane Co., L.P.A., 261 West Johnstown Road, Columbus, Ohio 43230 by an agent of Byron S. Adams, by depositing same in the United States mail this ____ day of December, 1984 postage prepaid.

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